

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/18/2022
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PENSKE MEDIA CORPORATION,

Plaintiff,

v.

SHUTTERSTOCK, INC.

Defendants.  
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No. 1:20-cv-04583-MKV

**STIPULATION**

WHEREAS, Plaintiff Penske Media Corporation (PMC) filed an Amended Complaint in this action on September 11, 2020 which asserted, among other claims, a Third Claim for Relief for violation the Digital Millennium Copyright Act (“DMCA”) and a Fourth Claim for Relief for Copyright Infringement concerning various photographic images registered with the Copyright Office within copyright registrations for PMC Archive Collection Nos. 3, 4, 5, 6, 7, 8, and 9;

WHEREAS, PMC previously notified Shutterstock, Inc. (“Shutterstock”) that PMC intended to narrow the scope of this dispute by (1) dismissing with prejudice from its Third Claim for Relief for violation of the DMCA certain images contained in copyright registrations for PMC Archive Collection Nos. 3, 5, 6, 7, and 8; and (2) dismissing with prejudice from its Fourth Claim for Relief for Copyright Infringement all images contained in copyright registrations for PMC Archive Collection Nos. 3, 5, 6, 7, and 8;

NOW THEREFORE, the parties hereby stipulate and agree that:

1. PMC hereby dismisses that portion of its Third Claim for Relief for violation of the DMCA related to the photographic images contained in copyright registrations for PMC Archive Collection Nos. 3, 5, 6, 7, and 8 that were taken at the following events:

Fahrenheit 451 Premiere; Second Act; Jessica Jones Premiere; YMA Awards; Full Frontal with Samantha Bee; The Tick TV Show; Elton John/Farewell Yellow Brick Road; TrevorLIVE; VH1 Barely Famous; Lemony Snicket, and Genius TV;

2. PMC hereby dismisses with prejudice that portion of its Fourth Claim for Relief for Copyright Infringement related to the photographic images contained in copyright registrations for PMC Archive Collection Nos. 3, 5, 6, 7, and 8;
3. This dismissal does not extend to the remaining images at issue in the Third Claim for Relief for violation of the DMCA and Fourth Claim for Relief for Copyright Infringement, not identified in paragraphs 1 and 2 above.
4. Shutterstock consents to this dismissal on the condition that it reserves all rights to seek to be designated as the prevailing party on PMC's Third Claim for Relief for violation of the DMCA and Fourth Claim for Relief for Copyright Infringement and to seek and obtain any and all remedies and relief that Shutterstock may be able to obtain as a prevailing party, including an award of attorneys' fees under the United States Copyright Act; and
5. PMC reserves all rights regarding whether Shutterstock may be designated as the prevailing party on PMC's Third Claim for Relief for violation of the DMCA and Fourth Claim for Relief for Copyright Infringement and any and all remedies and relief that Shutterstock may be able to obtain as a prevailing party, including an award of attorneys' fees under the United States Copyright Act.

Dated: New York, New York  
November 14, 2022

Respectfully submitted,

SHAPIRO ARATO BACH LLP

By: /s/ Cynthia S. Arato  
Cynthia S. Arato

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*Attorney for Plaintiff Penske Media Corporation*

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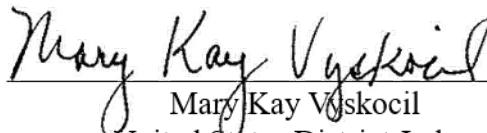
By: /s/ Eleanor M. Lackman  
Eleanor M. Lackman

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*Attorney for Defendant Shutterstock, Inc.*

**Granted. SO ORDERED.**

Date: 11/18/2022  
New York, New York

  
Mary Kay Vyskocil  
United States District Judge